

Leadership...Service...Accountability

February 1, 2013
USOE Educational Equity Section
SEA Civil Rights Monitoring Office

Executive Summary Section 504

Should District Policies be modified if "incongruent" with IDEA and Section 504

Dear Colleague:

The following is a summary of information is being shared with you as a result of:

A law case, Traverse City (MI) Area Public Schools, 59 IDELR 144 (OCR, 2012) in which the OCR noted that the district's refusal to modify its policies resulted in unnecessarily delayed the students receipt of services.

Follow the following guidance with modification of District Policy:

- 1. Have knowledge of and understand requirement to make reasonable modifications.
 - Title II requires districts to modify policies, practices, and procedures if modifications are necessary to avoid discrimination based on disability.
 - The district does not have to make modifications, if they can prove that making the modification will greatly alter the nature of the service, program, or activity. 28CFR35.130 (b) (7)

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- 2. Train staff regarding the obligation to modify policies:
 - As educators we are often worried about policy and following it to the letter of the law. However, Section 504 and IDEA require you to look at each individual case.
- 3. Staff should be encouraged to share concerns with administration.
 - School staff should inform an administrator if they think a modified policy is needed for a student.
 - Decisions for making policy change should go "up the change of command" so that changes are made the equally for a student with the same disability.
- 4. Talk with parents about their concerns:
 - When districts don't consider modification of a policy or procedure, they risk damaging relationships with families.
 - Traverse City got into trouble because they stuck to its policy without talking to the parents about their concerns or considering modification of their policy.

Note:

This document is a USOE-specific summary of information from guidance material adapted from the January, 2013 Section 504 Compliance Advisor, Volume 16, Issue 11

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